

Message Text

CONFIDENTIAL

PAGE 01 STATE 279055

13

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FM SECSTATE WASHDC

TO AMEMBASSY SANTO DOMINGO

C O N F I D E N T I A L STATE 279055

E.O. 11652: GDS

TAGS: MASS, DM

SUBJECT: PROPOSED DEMILITARIZATION OF OBSOLETE US MUNITIONS
IN DOMINICAN REPUBLIC

REF: (A) SECSTATE 217591 NOVEMBER 5, 1973 (B) SANTO
DOMINGO 3915

1. INTERAGENCY REVIEW OF DEMILITARIZATION PROPOSAL NOW
UNDERWAY, RESPONDING TO DIPLOMATIC NOTE CONVEYED REFTEL B
AND INQUIRIES BY AMERICAN BUSINESS INTERESTS. USG VIEW OF
PROPOSAL REMAINS NEGATIVE, FOR REASONS OUTLINED REFTEL A.
WITH FURTHER EXPLORATION OF LEGAL AND POLICY ISSUES, AND
ADDITIONAL INFORMATION AND CURRENT VIEWS FROM EMBASSY, WE
WOULD HOPE TO ARRIVE AT FINAL DECISION IN NEAR FUTURE.

2. THE FOLLOUING ARE USG PRELIMINARY VIEWS AND CON-
CLUSIONS SUPPLEMENTING THOSE CONTAINED IN REFTEL A, PENDING
FURTHER DISCUSSIONS WITH INTERESTED AMERICANS IN WASHINGTON
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PAGE 02 STATE 279055

AND EMBASSY CONSIDERATION OF MATTER.

A. PROPOSED DEMILITARIZATION IS UNLIKE THE ONE ARRANGED IN THE PAST WITH ISRAEL. IN THAT CASE, THE MUNITIONS WERE SOLD UNDER AGREEMENT WHICH STIPULATED THAT SCRAP WOULD BE USED FOR MILITARY PURPOSES. ALSO, DEMILITARIZATION WORK WAS PERFORMED IN ISRAEL WITHOUT RESIDENT USG MONITORING. BUSINESS INTERESTS IN PRESENT CASE HAVE SAID THEY WOULD WELCOME DOD RESIDENT SUPERVISION. HOWEVER, DOD NOT PREPARED

TO PROVIDE SUPERVISION EVEN ON REIMBURSABLE BASIS. IT SHOULD BE NOTED THAT ISRAEL HAS ALREADY ACQUIRED BULK OF AVAILABLE USG EXCESS SMALL CALIBER AMMUNITION.

B. THE PROPOSED DEMILITARIZATION SCHEME APPEARS TO BE ECONOMICALLY INFEASIBLE, DUE TO HIGH COST OF FACILITIES, EQUIPMENT AND TRANSPORTATION. THE US NAVY POSSESSES A LARGE QUANTITY OF OBSOLETE MINES, DEPTH CHARGES, PROJECTILES, BOMBS, ROCKET MOTORS, FLARES, ETC. CONTAINING LITTLE OR NO BRASS, WHICH WOULD REQUIRE EXPENSIVE AND ELABORATE EQUIPMENT TO DEMILITARIZE AND RECLAIM POWDER AND SCRAP. IN VIEW OF THE EXPENSE INVOLVED AND THE UNPREDICTABILITY OF FUTURE SUPPLIES OF EXCESS MUNITIONS, THE USN HAS NOT BEEN ABLE TO INTEREST US COMMERCIAL FIRMS IN UNDERTAKING THIS RECLAMATION. THE USN EXPECTS TO BE ABLE TO RECLAIM THIS OBSOLETE MUNITION WHEN A PLANNED USG RECLAMATION FACILITY (ESTIMATED COST OF 26 MILLION DOLLARS, INCLUDING 2 MILLION DOLLARS FOR EQUIPMENT) BEGINS OPERATION IN 1976. FYI. APPROXIMATELY 4000 TONS OF BRASS AMMO IS CURRENTLY DISPERSED IN VARIOUS USN DEPOTS ALL OVER THE US. THE COST OF ASSEMBLING AND TRANSPORTING THIS AMMO IS ESTIMATED 1.2 MILLION DOLLARS, AND ISRAEL IS CURRENTLY CONSID THIS ADDITIONAL PURCHASE. END FYI.

C. THERE ARE THREE MEANS BY WHICH THE USG COULD FURNISH EXCESS AMMO TO GODR. ALTHOUGH NONE APPEARS LEGALLY FEASIBLE FOR REASONS SET OUT BELOW, EACH IS DISCUSSED HERE INASMUCH AS ALL HAVE BEEN, OR MAY BE, RAISED IN CONNECTION WITH DEMILITARIZATION PROPOSAL. THESE ARE:

I. AS GRANT UNDER MAP; PURSUANT TO SECTION 501 ET SEQ,
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PAGE 03 STATE 279055

OF FOREIGN ASSISTANCE ACT (FAA). THIS ROUTE UNAVAILABLE FOR AT LEAST THREE REASONS. FIRST, AND MOST IMPORTANT, IT IS DOUBTFUL THAT PROPOSED DEMILITARIZATION PROGRAM WOULD FALL WITHIN PURPOSES FOR WHICH MAP IS AUTHORIZED UNDER SECTION 502 OF FAA. THESE PURPOSES ARE LIMITED TO INTERNAL SECURITY, SELF-DEFENSE, PARTICIPATION IN REGIONAL OR COLLECTIVE MEASURES CONSISTENT WITH UN CHARTER, COLLECTIVE MEASURES REQUESTED BY THE UN, AND QUOTE ASSISTING FOREIGN

MILITARY FORCES ...TO CONSTRUCT PUBLIC WORKS AND TO ENGAGE IN OTHER ACTIVITIES TO THE ECONOMIC AND SOCIAL DEVELOPMENT ...UNQUOTE. THE FIRST FOUR OF THE FOREGOING ARE PRIMA FACIE INAPPOSITE, AND THE LAST, SO-CALLED "CIVIC ACTION" CANNOT RPT CANNOT BE PROPERLY CONSTRUED TO EMBRACE ACTIVITIES SUCH AS THAT PROPOSED FOR DOMREP IN VIEW OF THE CLEAR INTENT OF CONGRESS AND LONG-STANDING EXECUTIVE BRANCH PRACTICE CLOSELY CIRCUMSCRIBING USE OF MAP FOR GENERAL ECONOMIC DEVELOPMENT ACTIVITIES. SECOND, USG-GODR AGREEMENT RECENTLY ENTERED INTO PURSUANT TO REQUIREMENTS OF NEW

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SECTION 505(F) OF FAA REQUIRES GODR TO PAY TO USG NET PROCEEDS FROM DISPOSAL OF MAP-ORIGIN MATERIEL. THUS, PROFITS FROM DEMILITARIZED MAP-ORIGIN AMMO WOULD NOT REDOUND TO BENEFIT OF DOMREP BUT WOULD HAVE TO BE PAID TO USG. THIRD, VALUE OF MAP-ORIGIN AMMO WOULD HAVE TO BE CHARGED AGAINST MAP PROGRAM ALLOCATION FOR GODR EVEN IF FURNISHED ON EXCESS DEFENSE ARTICLES (EDA) BASIS.

II. AS AID GRANT UNDER FAA SECTION 608, WHICH PROVIDES, IN GENERAL, FOR AID ADVANCE ACQUISITION OF USG EXCESS PERSONAL PROPERTY TO BE USED IN THE FURNISHING OF ASSISTANCE TO ELIGIBLE RECIPIENTS PURSUANT TO FAA PART I (DEVELOPMENT ASSISTANCE). EXCESS PERSONAL PROPERTY MAY BE FURNISHED AS ASSISTANCE TO ELIGIBLE RECIPIENTS PURSUANT TO FAA SECTION 608, PROVIDED: A) SUCH PROPERTY HAS BEEN PREVIOUSLY DECLARED AS EXCESS PURSUANT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949, AS AMENDED (40 USC 471, ET SEQ.); B) ALL COSTS INCURRED IN CONNECTION WITH SUCH PROPERTY ARE CHARGES TO THE APPROPRIATE PROVISION OF FAA PART I FOR WHICH FUNDS HAVE BEEN AUTHORIZED FOR THE FURNISHING OF SUCH ASSISTANCE (SUCH FUNDS WILL BE USED TO REIMBURSE THE EXCESS PROPERTY ADVANCE ACQUISITION ACCOUNT).
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PAGE 04 STATE 279055

(THIS MEANS THAT COSTS WOULD BE CHARGES TO THE APPROPRIATE BUREAU'S (AND THE COUNTRY'S) GRANT AID ACCOUNT, WHICH IS NOT DESIRED BY DEPARTMENT); AND C) AID HAS APPROVED SUCH TRANSFER AND HAS MADE THE CORRESPONDING CERTIFICATION PURSUANT TO FAA SECTION 607 (B). HOWEVER, TRANSFER OF PERSONAL EXCESS PROPERTY UNDER SECTION 608 OF THE FAA IS INTENDED FOR NON-MILITARY ASSISTANCE. MOREOVER, THE INHERENT PROBLEMS ASSOCIATED WITH TRANSFER OF ANY LIVE AMMUNITION RAISES SERIOUS DOUBTS AS TO THE PROPRIETY OF SUCH A TRANSFER UNDER SECTION 608. IN ADDITION, THE SELLING OF THE DEMILITARIZED SCRAP, WITH PROFITS DERIVED THEREFROM DIVIDED AMONG INDIVIDUALS IN THE PRIVATE SECTOR AND CERTAIN OFFICIALS OF THE GODR APPEAR CLEARLY INCONSISTENT WITH THE PURPOSE OF PART I OF THE FAA.

III. AS DIRECT SALE, UNDER FOREIGN MILITARY SALES ACT (FMSA). IN VIEW OF SUBSTANTIAL SIMILARITY BETWEEN SECTION 4 OF FMSA AND SECTION 502 OF FAA (SEE DISCUSSION AT I. ABOVE), SALE OF AMMO IN THIS CASE WOULD PRESENT SAME GRAVE QUESTIONS OF STATUTORY AUTHORIZATION AS WOULD PROVISION OF AMMO UNDER MAP. IN ANY EVENT, ANY SALE OF AMMO WOULD HAVE TO BE ON STRICT CASH OR DEPENDABLE UNDERTAKING (120 DAYS) BASIS IN VIEW FIRM POLICY OF NOT MAKING AVAILABLE FMS CREDIT FOR PURCHASE OF CONSUMABLES. MOREOVER, ANY SALE (INCLUDING SALE ON EDA BASIS) COULD NOT BE AT LESS THAN MARKET VALUE.

D) WHILE TECHNICAL, ECONOMIC AND LEGAL CONSIDERATIONS APPEAR TO RULE OUT FEASIBILITY OF PROPOSAL, THE PROJECT IS ALSO SUBJECT TO THE FOLLOWING POLICY RESERVATIONS: 1) CONCERN OVER POSSIBLE DIVERSIONS OF MUNITIONS; 2) CONCERN OVER SAFETY FACTORS AND ADVERSE REACTION THAT AN ACCIDENT WOULD CAUSE TO THE TRANSFER OF MUNITIONS; AND 3) CONCERN THAT THE DISTRIBUTION OF PROFITS FROM DEMILITARIZATION SCHEME COULD BE SUCH AS TO RAISE CRITICISM OF USG SECURITY ASSISTANCE PROGRAM IN CONGRESS AND ELSEWHERE.

4. DESPITE INDICATIONS FROM MR. IRVING DAVIDSON, AMERICAN CITIZEN MOST DEEPLY INVOLVED IN DEMILITARIZATION PROPOSAL, THAT THERE IS GREAT INTEREST IN DOD IN DISPOSING OF EXCESS AMMO, THIS IS NOT RPT NOT THE CASE. NEITHER ARMY NOR CONFIDENTIAL

CONFIDENTIAL

PAGE 05 STATE 279055

AIR FORCE HAS OVER AGE AMMO FOR DISPOSAL. NAVY HAS NOT REQUESTED THAT DAVIDSON OR OTHER PRIVATE PARTIES SOLVE ANY ALLEGED AMMUNITION STORAGE PROBLEM, NOR HAS NAVY ACQUIESCED IN PROPOSED MUNITIONS TRANSFER TO GODR.

5. EMBASSY INVITED TO COMMENT ON ANY OF FOREGOING AND PROVIDE ANY ADDITIONAL INFORMATION IT DEEMS APPROPRIATE FOR FINAL CONSIDERATION OF THE PROPOSAL IN WASHINGTON.

6. BELIEVE IT WOULD BE APPROPRIATE FOR EMBASSY TO CONVEY TO APPROPRIATE OFFICIALS USG APPROCIATION FOR OFFER CONTAINED IN NOTE (REFTEL B), AND TO INFORM GODR THAT PROPOSAL IS NOW UNDERSTUDY BY USG. AT ITS DISCRETION, EMBASSY MAY ADD THAT DEPARTMENT IN CONTACT WITH DOD AND INTERESTED AMERICAN CITIZENS ON DEMILITARIZATION PROPOSAL AND THAT PRELIMINARY USG VIEW IS THAT PROPOSAL, AS WE UNDERSTAND, IT, DOES NOT APPEAR TO BE FEASIBLE. KISSINGER

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